

BEFORE THE
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
DOCKET NO. 2019-390-E

IN RE: Ganymede Solar, LLC,)	DOMINION ENERGY
)	SOUTH CAROLINA,
Petitioner,)	INC.'S RESPONSE IN
)	OPPOSITION TO
Dominion Energy South Carolina,)	MOTION FOR
Inc.,)	EXPEDITED
)	HEARING ON
Respondent.)	MOTION FOR
)	CLARIFICATION OF
		DIRECTIVE ORDER
		NO. 2020-43

Pursuant to S.C. Code Ann. Regs. § 103-829(A) and other applicable rules of practice and procedure of the Public Service Commission of South Carolina (“Commission”), Dominion Energy South Carolina, Inc. (“DESC”) responds in opposition to Ganymede Solar, LLC’s (“Ganymede”) Motion for Expedited Hearing on Motion for Clarification of Directive Order No. 2020-43, filed on January 27, 2020, in the above-referenced docket (the “Motion”). For the reasons set forth below, DESC respectfully requests that (i) the Motion be denied and (ii) the Commission adopt the procedural schedule set forth on Exhibit A and incorporated herein.

RELEVANT BACKGROUND

On December 20, 2019, Ganymede initiated the instant dispute by filing a Motion to Maintain Status Quo and a Petition in the above-referenced docket—each of which named DESC as the Respondent.¹ Ganymede filed an amended Petition (the “Petition”) on January 24, 2020.

¹ Indeed, the Commission has ruled that where a Petitioner seeks relief under an interconnection agreement pursuant to a Motion to Maintain Status Quo, DESC should be “a party to the docket without having to intervene in it.”

The Petition made a number of unsupported claims to avoid making a milestone payment in accordance with Ganymede's interconnection agreement (the "Ganymede IA"). In response to Ganymede's filings, DESC filed (i) a Response in Opposition to Motion to Maintain Status Quo on December 30, 2019, (ii) an Answer on January 21, 2020, and (iii) an Answer to Amended Petition on January 24, 2020.² Since Ganymede's initial filings, Ganymede failed to make its second milestone payment ("Milestone Payment 2") under the Ganymede IA. As a result, DESC provided Ganymede with a notice of default and offered an opportunity to cure. Ganymede did not respond to the notice. DESC then terminated the Ganymede IA on January 8, 2020, pursuant to the terms of the Ganymede IA, and removed Ganymede from the interconnection queue.

On January 15, 2020, the Commission issued Order No. 2020-43 (the "Order"), which is attached hereto as Exhibit B and incorporated herein. The Order contained one point of consequence—the Commission took the Motion to Maintain Status Quo “under advisement.” Order at 1. However, almost two weeks after the Order was issued, Ganymede filed the Motion, requesting that the Commission instruct “DESC to rescind its improper actions purporting to terminate the [Ganymede IA] and purporting to remove the Project from its rightful queue position.” Motion at 3. On January 29, 2020, DESC filed a Response in Opposition to the Motion for Clarification (the "Response"), which is attached hereto as Exhibit C and incorporated herein. The Response illustrated the various deficiencies within the Motion for Clarification, and requested that it be denied.

On February 2, 2020, DESC filed for an extension of time to submit its direct testimony because it had not received even a single adequate response from Ganymede to its discovery

Request of Beulah Solar, LLC for Modification of Interconnection Agreement with South Carolina Electric & Gas Company, 2019 WL 202765, at *1 (S.C.P.S.C. 2019).

² DESC explained in its Response, among other things, that Ganymede had an affirmative obligation to make Milestone Payment 2 under the Ganymede IA. Therefore, the mere act of filing a request to maintain the status quo did not enjoin or otherwise toll the parties' contractual obligations. Indeed, “maintaining the status quo” meant Ganymede was required to make Milestone Payment 2 in accordance with the Ganymede IA.

requests. Indeed, Ganymede improperly objected to Discovery Requests and refused to provide relevant information, as required under the discovery rules applicable to this proceeding. On February 12, 2020, Ganymede requested that “all subsequent filing deadlines and the Hearing date be indefinitely extended.”

Now, Ganymede comes with the Motion, which seeks “an expedited Hearing on its Motion for Clarification, because the Commission’s decision will render moot several pending Motions from [DESC] and serve to conserve the judicial economy of this Commission.” Motion at 1. For the reasons set forth below, the Motion should be denied and the procedural schedule set forth on Exhibit A should be adopted.

ARGUMENT

The Motion is simply another improper attempt by Ganymede to have the Commission decide the merits of its claims without abiding by the procedural rules applicable to this proceeding. If the Commission holds an expedited hearing on the Motion for Clarification, it would necessarily be forced to confront the merits of Ganymede’s claim prior to any discovery, DESC testimony, or other dispositive orders on the various other motions before the Commission. Indeed, the Motion for Clarification requests that the Commission revive and amend the Ganymede IA in order to place Ganymede back in the interconnection queue without penalty for its failure to submit Milestone Payment 2—the very relief Ganymede seeks in its Petition.³

Ganymede has orchestrated parallel strategies in this docket to ultimately obtain its requested relief from the Commission. On one hand, Ganymede has conjured numerous filings to press the Commission to recognize that simply by submitting filings—without any decision

³ In the Petition, Ganymede requests that the Commission “modify the deadline for the Milestone payment of December 27, 2019 . . . [and provide] sufficient certainty that the Ganymede IA will not be terminated for delay.” Petition at 5.

from the Commission—Ganymede has enjoined the parties’ obligations under the Ganymede IA and simultaneously suspended the Commission’s interconnection rules.⁴ On the other hand, Ganymede has utilized evasive tactics to stonewall DESC and this Commission from obtaining any information about Ganymede’s claims other than what it has alleged within the four corners of its pleadings.⁵ It is clear that Ganymede believes that if it can continue to advance unsupported allegations, while barring the door on the discovery process just long enough, that it may find victory in this docket without ever shining light on its unsupported claims.⁶

These delay tactics are not only evasive, but also demonstrate an outright disregard for well-settled legal principles. DESC will consent to an expedited hearing in this docket—in fact, DESC would welcome it—provided, however, Ganymede first provides discovery responses in accordance with well-settled and fundamental legal principles applicable to this proceeding. Previously, DESC requested Ganymede provide “adequate discovery responses.” DESC clarifies its request that Ganymede provide “full and fair disclosure”⁷ and responses to the Discovery Requests, with the exception of any limited situations where there is “good cause shown” to the Commission that providing such responses will cause “annoyance, embarrassment, oppression, or undue burden by expense”⁸ or such response is otherwise privileged. Blanket objections and generalized assertions that all questions cause harm, without more, does not satisfy the well-settled rules and principles applicable to this proceeding.

⁴ To date, Ganymede has advanced unsupported positions in various manners of pleadings, including the instant Motion, the Motion for Clarification, an Informational Filing, and a Response to the Directive Order and Request for Guidance.

⁵ To date, Ganymede has objected to discovery in a Motion for Protective Order, Objection/Responses to Company’s First Set of Discovery Requests, and a Letter to Hearing Officer.

⁶ This point is demonstrated throughout the docket, but perhaps is most clearly seen through Ganymede’s February 12, 2020 request for an indefinite delay in response to DESC’s request for a delay until discovery is produced and Ganymede’s current Motion for an expedited hearing on the merits.

⁷ *In re Anonymous Member of South Carolina Bar*, 552 S.E.2d 10, 18 (S.C. 2001) (internal citations omitted).

⁸ *Hollman v. Woolfson*, 683 S.E.2d 495, 498 (S.C. 2009); *see also Hamm v. South Carolina*, 439 S.E.2d 852 (S.C. 1994); *Gattison v. S.C. State College*, 456 S.E.2d 414 (S.C. Ct. App. 1995); Rule 26, SCRPC.

In light of the numerous filings, and to assist the Commission and avoid confusion, DESC proposes the compressed procedural schedule attached hereto as Exhibit A. Although DESC is under no obligation to agree to compressed deadlines, in doing so, DESC presents a compromise such that Ganymede may be able to have the expedited hearing that it so eagerly desires.

CONCLUSION

Ganymede cannot continue to mock the authority of the Commission by simply refusing to participate in discovery in the proceeding it initiated, while simultaneously demanding the time and resources of DESC and the Commission to address filings by different names that are all aimed at achieving the same goal—obtaining a favorable decision without having to account for the baseless claims it has lobbed at the Commission for almost two months. For these reasons, DESC requests that the Commission (i) deny the Motion and (ii) adopt the procedural schedule attached hereto as Exhibit A so that Ganymede is finally held accountable for its actions in this docket.

[SIGNATURE PAGE FOLLOWS]

Respectfully Submitted,

/s/ J. Ashley Cooper

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Cayce, South Carolina
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CERTIFICATE OF SERVICE

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Exhibit A

Ganymede's responses to DESC Discovery Requests	Monday, March 2, 2020
DESC's Direct Testimony	Wednesday, March 11, 2020
Ganymede's Rebuttal Testimony	Wednesday, March 18, 2020
DESC's Surrebuttal Testimony	Wednesday, March 25, 2020
Hearing	Wednesday, April 8, 2020

Exhibit B

Exhibit C